

Citation: *F. A. v. Canada Employment Insurance Commission and 6397018 Canada Inc.*,
2015 SSTAD 1116

Appeal No. AD-15-869

BETWEEN:

F. A.

Applicant

and

Canada Employment Insurance Commission and 6397018 Canada Inc

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER : Mark BORER

DATE OF DECISION: September 18, 2015

DECISION: Leave to appeal granted

DECISION

[1] On June 26, 2015, a General Division member determined that the Applicant's appeal from the previous determination of the Commission should be dismissed. In due course, the Applicant filed an application for leave to appeal to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development Act* states that the only grounds of appeal are that:

- (a) The General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) The General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- (c) The General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[3] The *Act* also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[4] Among other arguments, the Applicant submits that the General Division member hearing his case was biased against him because she ignored his arguments and had made up her mind before the hearing.

[5] Allegations of bias are extremely serious. Although I make no finding on the matter, I find that there are sufficient specifics here to establish grounds for appeal. I will, however, expect the Applicant to provide further submissions and evidence regarding these allegations prior to any hearing. I note that the courts have repeatedly stated that there is a strong but rebuttable presumption that a judicial or quasi-judicial decision maker (such as the General Division member) is not biased against any party.

[6] Having found the above, I conclude that this application has a reasonable chance of success and that this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division